

106TH CONGRESS  
2D SESSION

# S. 2412

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 12, 2000

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCES.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “National Transportation Safety Board Amendments Act  
6       of 2000”.

7       (b) **REFERENCES.**—Except as otherwise specifically  
8       provided, whenever in this Act an amendment or repeal

1 is expressed in terms of an amendment to, or repeal of,  
 2 a section or other provision of law, the reference shall be  
 3 considered to be made to a section or other provision of  
 4 title 49, United States Code.

5 **SEC. 2. DEFINITIONS.**

6 Section 1101 is amended to read as follows:

7 **“§ 1101. Definitions**

8 “Section 2101(17a) of title 46 and section 40102(a)  
 9 of this title apply to this chapter. In this chapter, the term  
 10 ‘accident’ includes damage to or destruction of vehicles in  
 11 surface or air transportation or pipelines, regardless of  
 12 whether the initiating event is accidental or otherwise.”.

13 **SEC. 3. AUTHORITY TO ENTER INTO AGREEMENTS.**

14 (a) IN GENERAL.—Section 1113(b)(1)(I) is amended  
 15 to read as follows:

16 “(I) negotiate and enter into agreements  
 17 with individuals and private entities and depart-  
 18 ments, agencies, and instrumentalities of the  
 19 Government, State and local governments, and  
 20 governments of foreign countries for the provi-  
 21 sion of facilities, accident-related services or  
 22 training in accident investigation techniques,  
 23 and require that such entities provide appro-  
 24 priate consideration for the reasonable costs of

1 any facilities, services, or training provided by  
 2 the Board.”.

3 (b) DEPOSIT OF AMOUNTS.—

4 (1) Section 1113(b)(2) is amended—

5 (A) by inserting “as offsetting collections”  
 6 after “to be credited”; and

7 (B) by adding after “Board.” the fol-  
 8 lowing: “The Board shall maintain an annual  
 9 record of collections received under paragraph  
 10 (1)(I) of this subsection.”.

11 (2) Section 1114(a) is amended—

12 (A) by inserting “(1)” before “Except”;  
 13 and

14 (B) by adding at the end thereof the fol-  
 15 lowing:

16 “(2) The Board shall deposit in the Treasury  
 17 amounts received under paragraph (1) to be credited  
 18 to the appropriation of the Board as offsetting col-  
 19 lections.”.

20 (3) Section 1115(d) is amended by striking “of  
 21 the ‘National Transportation Safety Board, Salaries  
 22 and Expenses’ ” and inserting “of the Board”.

23 **SEC. 4. OVERTIME PAY.**

24 Section 1113 is amended by adding at the end the  
 25 following:

1 “(g) OVERTIME PAY.—

2 “(1) IN GENERAL.—Subject to the require-  
3 ments of this section and notwithstanding para-  
4 graphs (1) and (2) of section 5542(a) of title 5, for  
5 an employee of the Board whose basic pay is at a  
6 rate which equals or exceeds the minimum rate of  
7 basic pay for GS-10 of the General Schedule, the  
8 Board may establish an overtime hourly rate of pay  
9 for the employee with respect to work performed at  
10 the scene of an accident (including travel to or from  
11 the scene) and other work that is critical to an acci-  
12 dent investigation in an amount equal to one and  
13 one-half times the hourly rate of basic pay of the  
14 employee. All of such amount shall be considered to  
15 be premium pay.

16 “(2) LIMITATION ON OVERTIME PAY TO AN EM-  
17 PLOYEE.—An employee of the Board may not re-  
18 ceive overtime pay under paragraph (1), for work  
19 performed in a calendar year, in an amount that ex-  
20 ceeds 15 percent of the annual rate of basic pay of  
21 the employee for such calendar year.

22 “(3) BASIC PAY DEFINED.—In this subsection,  
23 the term ‘basic pay’ includes any applicable locality-  
24 based comparability payment under section 5304 of  
25 title 5 (or similar provision of law) and any special

1 rate of pay under section 5305 of title 5 (or similar  
2 provision of law).

3 “(4) ANNUAL REPORT.—Not later than Janu-  
4 ary 31, 2001, and annually thereafter, the Board  
5 shall transmit to the Senate Committee on Com-  
6 merce, Science and Transportation and the House  
7 Transportation and Infrastructure a report identi-  
8 fying the total amount of overtime payments made  
9 under this subsection in the preceding fiscal year.”.

10 **SEC. 5. RECORDERS.**

11 (a) COCKPIT VIDEO RECORDINGS.—Section 1114(c)  
12 is amended—

13 (1) by striking “VOICE” in the subsection head-  
14 ing;

15 (2) by striking “cockpit voice recorder” in para-  
16 graphs (1) and (2) and inserting “cockpit voice or  
17 video recorder”; and

18 (3) by inserting “or any written depiction of  
19 visual information” after “transcript” in the second  
20 sentence of paragraph (1).

21 (b) SURFACE VEHICLE RECORDINGS AND TRAN-  
22 SCRIPTS.—

23 (1) IN GENERAL.—Section 1114 is amended—

24 (A) by redesignating subsections (d) and

25 (e) as subsections (e) and (f), respectively; and

1 (B) by inserting after subsection (e) the  
 2 following:

3 “(d) SURFACE VEHICLE RECORDINGS AND TRAN-  
 4 SCRIPTS.—

5 “(1) CONFIDENTIALITY OF RECORDINGS.—The  
 6 Board may not disclose publicly any part of a sur-  
 7 face vehicle voice or video recorder recording or  
 8 transcript of oral communications by or among driv-  
 9 ers, train employees, or other operating employees  
 10 responsible for the movement and direction of the  
 11 vehicle or vessel, or between such operating employ-  
 12 ees and company communication centers, related to  
 13 an accident investigated by the Board. However, the  
 14 Board shall make public any part of a transcript or  
 15 any written depiction of visual information that the  
 16 Board decides is relevant to the accident—

17 “(A) if the Board holds a public hearing  
 18 on the accident, at the time of the hearing; or

19 “(B) if the Board does not hold a public  
 20 hearing, at the time a majority of the other fac-  
 21 tual reports on the accident are placed in the  
 22 public docket.

23 “(2) REFERENCES TO INFORMATION IN MAKING  
 24 SAFETY RECOMMENDATIONS.—This subsection does  
 25 not prevent the Board from referring at any time to

1 voice or video recorder information in making safety  
2 recommendations.”.

3 (2) CONFORMING AMENDMENT.—The first sen-  
4 tence of section 1114(a) is amended by striking  
5 “and (e)” and inserting “(d), and (f)”.

6 (c) DISCOVERY AND USE OF COCKPIT AND SURFACE  
7 VEHICLE RECORDINGS AND TRANSCRIPTS.—

8 (1) IN GENERAL.—Section 1154 is amended—

9 (A) by striking the section heading and in-  
10 serting the following:

11 **“§ 1154. Discovery and use of cockpit and surface ve-**  
12 **hicle recordings and transcripts”;**

13 (B) by striking “cockpit voice recorder”  
14 each place it appears in subsection (a) and in-  
15 serting “cockpit or surface vehicle recorder”;

16 (C) by striking “section 1114(e)” each  
17 place it appears in subsection (a) and inserting  
18 “section 1114(c) or 1114(d)”; and

19 (D) by adding at the end the following:

20 “(6) In this subsection:

21 “(A) RECORDER.—The term ‘recorder’  
22 means a voice or video recorder.

23 “(B) TRANSCRIPT.—The term ‘transcript’  
24 includes any written depiction of visual infor-  
25 mation obtained from a video recorder.”.

1           (2) CONFORMING AMENDMENT.—The chapter  
 2           analysis for chapter 11 is amended by striking the  
 3           item relating to section 1154 and inserting the fol-  
 4           lowing:

“1154. Discovery and use of cockpit and surface vehicle recordings and tran-  
 scripts.”.

5   **SEC. 6. PRIORITY OF INVESTIGATIONS.**

6           (a) IN GENERAL.—Section 1131(a)(2) is amended—

7                 (1) by striking “(2) An investigation” and in-  
 8                 serting

9                 “(2)(A) Subject to the requirements of this  
 10                 paragraph, an investigation”; and

11                (2) by adding at the end the following:

12                         “(B) If the Attorney General, in consulta-  
 13                         tion with the Chairman of the Board, deter-  
 14                         mines and notifies the Board that cir-  
 15                         cumstances reasonably indicate that the acci-  
 16                         dent may have been caused by an intentional  
 17                         criminal act, the Board shall relinquish inves-  
 18                         tigative priority to the Federal Bureau of Inves-  
 19                         tigation. The relinquishment of investigative  
 20                         priority by the Board shall not otherwise affect  
 21                         the authority of the Board to continue its inves-  
 22                         tigation under this section.

23                        “(C) If a Federal law enforcement agency  
 24                        suspects and notified the Board that an acci-



dent being investigated by the Board under subparagraph (A), (B), (C), or (D) of paragraph (1) may have been caused by an intentional criminal act, the Board, in consultation with the law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.”.

(b) REVISION OF 1977 AGREEMENT.—Not later than 1 year the date of the enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this Act.

**SEC. 7. PUBLIC AIRCRAFT INVESTIGATION CLARIFICATION.**

Section 1131(d) is amended by striking “1134(b)(2)” and inserting “1134 (a), (b), (d), and (f)”.

**SEC. 8. MEMORANDUM OF UNDERSTANDING.**

Not later than 1 year after the date of the enactment of this Act, the National Transportation Safety Board and the United States Coast Guard shall revise their Memorandum of Understanding governing major marine accidents—

(1) to redefine or clarify the standards used to determine when the National Transportation Safety Board will lead an investigation; and

1           (2) to develop new standards to determine when  
2           a major marine accident involves significant safety  
3           issues relating to Coast Guard safety functions.

4 **SEC. 9. TRAVEL BUDGETS.**

5           The Chairman of the National Transportation Safety  
6 Board shall establish annual fiscal year budgets for non-  
7 accident-related travel expenditures for Board members,  
8 and submit to the Senate Committee on Commerce,  
9 Science, and Transportation and to the House of Rep-  
10 resentatives Committee on Transportation and Infrastruc-  
11 ture an annual report detailing the non-accident-related  
12 travel of each Board member. The report shall include sep-  
13 arate accounting for foreign and domestic travel, including  
14 any personnel or other expenses associated with that  
15 travel.

16 **SEC. 10. CHIEF FINANCIAL OFFICER.**

17           Section 1111 is amended—

18           (1) by redesignating subsection (h) as sub-  
19           section (i); and

20           (2) by inserting after subsection (g) the fol-  
21           lowing:

22           “(h) CHIEF FINANCIAL OFFICER.—The Chairman  
23 shall designate an officer or employee of the Board as the  
24 Chief Financial Officer. The Chief Financial Officer  
25 shall—

1           “(1) report directly to the Chairman on finan-  
2           cial management and budget execution;

3           “(2) direct, manage, and provide policy guid-  
4           ance and oversight on financial management and  
5           property and inventory control; and

6           “(3) review the fees, rents, and other charges  
7           imposed by the Board for services and things of  
8           value it provides, and suggest appropriate revisions  
9           to those charges to reflect costs incurred by the  
10          Board in providing those services and things of  
11          value.”.

12 **SEC. 11. IMPROVED AUDIT PROCEDURES.**

13          The National Transportation Safety Board shall de-  
14          velop and implement comprehensive internal audit controls  
15          for its financial programs based on the findings and rec-  
16          ommendations of the private sector audit firm contract en-  
17          tered into by the Board in March, 2000. The improved  
18          internal audit controls shall, at a minimum, address Board  
19          asset management systems, including systems for account-  
20          ing management, debt collection, travel, and property and  
21          inventory management and control.

22 **SEC. 12. AUTHORITY OF THE INSPECTOR GENERAL.**

23          (a) IN GENERAL.—Subchapter III of chapter 11 of  
24          subtitle II is amended by adding at the end the following:

1 **“§ 1137. Authority of the Inspector General**

2 “(a) IN GENERAL.—The Inspector General of the  
3 Department of Transportation, in accordance with the  
4 mission of the Inspector General to prevent and detect  
5 fraud and abuse, shall have authority to review only the  
6 financial management and business operations of the Na-  
7 tional Transportation Safety Board, including internal ac-  
8 counting and administrative control systems, to determine  
9 compliance with applicable Federal laws, rules, and regu-  
10 lations.

11 “(b) DUTIES.—In carrying out this section, the In-  
12 spector General shall—

13 “(1) keep the Chairman of the Board and Con-  
14 gress fully and currently informed about problems  
15 relating to administration of the internal accounting  
16 and administrative control systems of the Board;

17 “(2) issue findings and recommendations for  
18 actions to address such problems; and

19 “(3) report periodically to Congress on any  
20 progress made in implementing actions to address  
21 such problems.

22 “(c) ACCESS TO INFORMATION.—In carrying out this  
23 section, the Inspector General may exercise authorities  
24 granted to the Inspector General under subsections (a)  
25 and (b) of section 6 of the Inspector General Act of 1978  
26 (5 U.S.C. App.).

1       “(d) REIMBURSEMENT.—The Inspector General shall  
 2 be reimbursed by the Board for the costs associated with  
 3 carrying out activities under this section.”.

4       (b) CONFORMING AMENDMENT.—The subchapter  
 5 analysis for such subchapter is amended by adding at the  
 6 end the following:

“1137. Authority of the Inspector General.”.

7       **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

8       Section 1118 is amended to read as follows:

9       **“§ 1118. Authorization of appropriations**

10       “(a) IN GENERAL.—There are authorized to be ap-  
 11 propriated for the purposes of this chapter \$57,000,000  
 12 for fiscal year 2000, \$65,000,000 for fiscal year 2001,  
 13 \$72,000,000 for fiscal year 2002, and \$79,000,000 for fis-  
 14 cal year 2003, such sums to remain available until ex-  
 15 pended.

16       “(b) EMERGENCY FUND.—The Board has an emer-  
 17 gency fund of \$2,000,000 available for necessary expenses  
 18 of the Board, not otherwise provided for, for accident in-  
 19 vestigations. Amounts equal to the amounts expended an-  
 20 nually out of the fund are authorized to be appropriated  
 21 to the emergency fund.”.

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